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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,163	08/24/2001	Toshiya Yagou	SHC0139	4115

832 7590 09/25/2002

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FORT WAYNE, IN 46802

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/939,163

Applicant(s)

YAGOU ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim 1 recites the limitation "said synthetic resin fibers" in lines 9, 10, and 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "said panels" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "said panels" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7-9, and 11 rejected under 35 U.S.C. 102(b) as being anticipated by Pieniak (4,560,372).

Pieniak discloses an absorbent panel for a sanitary wearing article comprising a fibrous web 10, as shown in figure 1, having a compression resilience. The fibrous web 10 comprises a plurality of openings, as shown in figure 1, and barriers surrounding the openings. The barriers comprise a shape keeping layer 14 and a body fluid retaining layer 12. The shape keeping layer 14 comprises thermoplastic synthetic resin fibers, as disclosed in column 7, lines 5-9. The body fluid retaining layer 12 comprises thermoplastic synthetic resin fibers mixed with an absorbent material, as disclosed in column 4, lines 39-58. The synthetic fibers are hot welded together at points of contact, as disclosed in column 4, lines 43-44.

With respect to claim 2, the absorbent material of the body fluid retaining layer 12 comprises a plurality of liquid-absorbent fibers made of high absorption polymer, as disclosed in column 5, lines 58-63.

With respect to claim 3, the barriers comprise a plurality of first barriers extending in parallel in a first direction, and a plurality of second barriers extending in parallel in a second direction, as shown in figure 1.

With respect to claim 5, the open area of the openings in the panel is in the range of about 20% to about 80%, as shown in figure 1. The openings have a length of about 12.7 mm, as disclosed in column 3, lines 13-15, and therefore an area of about 40 mm<sup>2</sup>. Figure 1 shows a panel having 12 openings, and the total area of the openings is 480 mm<sup>2</sup>.

With respect to claim 7, the ratio of the thickness of the shape keeping layer 14 to the body fluid retaining layer 12 is about 2:1, as shown in figure 4.

With respect to claim 8, the body fluid absorbent layer 12 comprises cellulose fibers, as disclosed in column 5, line 66.

With respect to claims 9 and 11, a mat-like liquid-absorbent core 46 is provided on the lower surface of the panel, as shown in figure 4.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pieniak (4,560,372) as applied to claim 1 above, and further in view of Colbert (5,479,335).

Pieniak discloses all aspects of the claimed invention with the exception of a second panel placed upon the first panel such that the openings of one panel are divided by the barriers of the other panel.

Colbert discloses a first panel 2 of fibrous web comprising a plurality of openings surrounded by barriers, as shown in figure 3. A second panel 4, also comprising a plurality of openings surrounded by barriers, is placed upon the first panel such that the barriers of the second panel 4 divide the openings of the first panel 2. This allows the complete structure, comprising both the first panel 2 and the second panel 4, to have

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smaller openings than either of the individual panels, as disclosed in column 8, lines 25-31.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to place a second panel upon the first panel of Pieniak, as taught by Colbert, to create a structure having smaller openings than either of the individual panels.

With respect to claim 10, Pieniak discloses the open area of the openings in the panel is in the range of about 20% to about 80%, as shown in figure 1. The openings have a length of about 12.7 mm, as disclosed in column 3, lines 13-15, and therefore an area of about  $40 \text{ mm}^2$ . Figure 1 shows a panel having 12 openings, and the total area of the openings is  $480 \text{ mm}^2$ . Colbert discloses a second panel having a total area of openings equal to that of the first panel, as disclosed in column 8, lines 28-29.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pieniak (4,560,372) as applied to claim 1 above, and further in view of Ellis et al. (5,490,846).

Pieniak discloses all aspects of the claimed invention but remains silent as to the compression resilience of the panel.

Ellis discloses a body fluid absorbent panel having a compression resilience of at least 60% to ensure that the panel does not collapse during use, as disclosed in column 7, lines 48-55.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the body fluid absorbent panel of Pieniak with a compression resistance of at least 60%, as taught by Ellis, so that the panel does not collapse during use.

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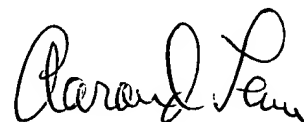
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 4,710,185; 5,536,264; 5,567,501; 5,928,210; 6,015,936; 6,127,293; and 6,140,550 pertain to fibrous webs comprising openings surrounded by barriers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, Primary Examiner Dennis Ruhl can be reached on (703) 308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Aaron J. Lewis  
Primary Examiner

CUA

cla

September 20, 2002